

OGC 80-05486

25 June 1980

MEMORANDUM FOR THE RECORD

SUBJECT: Agency Fuel Allocation

REFERENCE: MFR from [REDACTED] DC/P&PS/OL, dated 5 May 1980; same subject

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1. I spoke today with Peter Schoenburg, an attorney in the Office of Assistant General Counsel for Petroleum Regulation, Department of Energy. The purpose of this conversation was to get assistance and suggestions for our proposed "interpretation request" of the Department of Energy (DOE) regulation, 10 CFR 211.103.
2. Previously, at a meeting with DOE, Mr. Schoenburg stated he would contact me with suggested language; however, he never called. I finally was able to contact him and was told that he had discussed with his superior, Mr. William Funk, the Assistant General Counsel for Petroleum Regulation, the substance of the 2 May 1980 meeting between the representatives of DOE and the Agency. He informed me that Mr. Funk offered no sympathy for a new interpretation of the DOE regulation that would change their existing understanding. In other words, we could not expect a favorable construction based on the information and reasons that had been provided to date by the Agency. Mr. Schoenburg did suggest that the Defense Production Act regulations would soon be issued and might offer some relief to us, at least indirectly. He explained briefly that the regulations would permit the Secretary of Defense to certify any Department of Defense (DOD) agency to receive all the fuel needed in time of emergency. He thought, possibly, DOD could include the Agency, but this is only speculation. Frankly, I do not see how this could be since we are not a DOD activity, but reserve judgment until such regulations are published and reviewed.

3. I met with the Director and Deputy Director of Logistics to inform them of the DOE position. Thereafter, I agreed to participate in preparing a letter to the

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Secretary of DOE with [] Chief, Procurement Division,
OL, [] Supply Division, OL, and []
Deputy Chief, Plans & Programs Staff, OL, for the DCI's
signature which will address our concern and provide additional
justification.

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Assistant General Counsel